

Attorney's Docket No.: 06618-790001

REMARKS

Reconsideration and allowance of the above referenced application are respectfully requested.

Claims 1-7 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. In response, the objected-to phrase has been removed from claim 1. Claim 1 has also been amended to more distinctly define what was meant by the term "effectiveness". Specifically, as amended, claim 1 recites using the salient parts "to determine an effectiveness of said image in attracting the attention of human observers to aspects of the image". This further distinguishes over the cited prior art, which does not in any way teach or suggest this subject matter.

Claims 1-5, 42-47 and 54 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent 5,566,246 (Rao). This contention has been obviated by the amendment of claim 1 to further emphasize its patentable features. Claim 42 has also been amended to further emphasize its patentable features. As amended, each of these claims is completely patentable over Rao.

Rao teaches a system for use in machine vision, for recognizing objects within an image. As part of the operation, Rao reduces edges defining an object within the image to a skeleton. Rao then analyzes the skeleton, to try and recognize

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what object the skeleton represents, e.g., is it a car, or a bird or some other object.

Note that this is very different than what is claimed by claim 1, which requires that the "salient parts" are used to determine the effectiveness of the image in attracting the attention of human observers and not as an aid for a computer vision system to recognize objects Rao, rather than determining the image's effectiveness in attracting the attention of a human observer, is attempting to recognize objects in the image. See for example figure 3C of Rao, where a computer is used to recognize the image content.

The rejection states that Rao analyzes the salient parts to determine effectiveness of the image in displaying its content. The rejection refers to the ranking of saliency in unit 60 of figure 1. While applicant disagrees, claim 1 is nonetheless amended to further emphasize that the "effectiveness" recited by claim 1 is the effectiveness of attracting the attention of human observers to aspects of the image. Nowhere does Rao teach this. Rao uses machine vision, and determines what the objects in the image specifically are. It teaches nothing about determining the user attention, nor does it in any way teach or suggest the overall subject matter now claimed.

Therefore, claim 1 should be allowable along with the claims which depend therefrom. Specifically, claim 3 should be

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specifically allowable as it defines higher-order statistical variations. The weight omega in column 4 lines 48-65 teaches nothing about a higher-order variation.

Claim 42 defines an aspect where the image saliency is determined by obtaining information about the image in at least two different spectral ranges and correlating (that is, in combining) that information from the two different spectral ranges. Claim 42 has been amended to emphasize that the correlating is correlating information about the image "in said at least two different spectral ranges". The salient portions of the image are obtained "from said correlating". Rao does in fact teach that the image can be obtained either in visible or infrared, and hence obtains two different images in two different spectral ranges. What Rao does not do, however, is correlate those two different spectral ranges. In fact, column 6 of Rao teaches that the operation of Rao is "fairly independent" of the spectral range. And the two images Rao gives as example (infrared and visible light) are, indeed, completely independent of each other. This teaching means that the spectral range which is obtained can be different spectral ranges for different applications. Nowhere is there any teaching or suggestion in Rao of correlating the two spectral ranges to determine salient portions. In fact, as described above, column 6 line 42 teaches away from this operation. The embodiments of

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Rao teach one application being infrared, the other application being visible. Specifically, there is no teaching or suggestion of the claimed subject matter, which requires correlating the ranges.

Therefore, claim 42 should be allowable, along with claims 43-47 and 54 which depend therefrom. Specifically, claim 45 defines that the analyzing comprises analyzing pixels of the image using second higher-order statistical variations. As described above, this is in no way taught or suggested by Rao. Claim 43 defines that the analyzing determines an effectiveness of the image in displaying the product. Again, this is nowhere taught or suggested by the cited prior art.

Claims 6 and 7 stand rejected over Rao and further in view of U.S. Patent No. 5,929,849 (Kikinis). Kikinis describes a system where in order to sell a product, the user's attention is drawn to a certain portion. For example, this may be done by putting a red box around that portion. The rejection is quite correct on page 5 which states that Kikinis "teachings using salient features in advertising in order to attract ... purchaser". Kikinis teaches using the salient features, but does not teach testing for salient features. The rejection admits that Rao does not teach evaluating the effectiveness of the image in an advertising context. Kikinis also does not

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teach this, that is implicitly recognized by the rejection.
Kikinis only teaches using, not evaluating.

Therefore, even assuming that Rao and Kikinis could be combined, all it would teach is a Rao type machine vision patent along with Kikinis' teaching of using salient features to attract the purchaser's attention. Nowhere is there any teaching or suggestion of evaluating the effectiveness of the image in attracting the attention of human observers as claimed. Furthermore, nowhere is there any teaching or suggestion of evaluating the effectiveness of the image in the advertising context as claimed. Therefore, and for these reasons, claim 6 should be additionally allowable. Claim 7 should be allowable for analogous reasons.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any

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claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant asks that all claims be allowed. No fees are believed to be due at this time. Please apply any charges not covered or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 5/3/05



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